

MINUTES

**CITY OF IMPERIAL BEACH
CITY COUNCIL
PLANNING COMMISSION
PUBLIC FINANCING AUTHORITY
HOUSING AUTHORITY
IMPERIAL BEACH REDEVELOPMENT AGENCY SUCCESSOR AGENCY**

AUGUST 19, 2015

**Council Chambers
825 Imperial Beach Boulevard
Imperial Beach, CA 91932**

**CLOSED SESSION MEETING – 5:00 P.M.
REGULAR MEETING – 6:00 P.M.**

CLOSED SESSION MEETING CALL TO ORDER

Mayor Dedina called the Closed Session meeting to order at 5:00 p.m.

ROLL CALL BY CITY CLERK

Councilmembers Present:	Patton, Bragg
Councilmembers Absent:	Spriggs
Mayor Present:	Dedina
Mayor Pro Tem Present:	Bilbray
Staff Present:	City Manager Hall, City Attorney Lyon, City Clerk Hald

CLOSED SESSION

MOTION BY BILBRAY, SECOND BY BRAGG, TO ADJOURN TO CLOSED SESSION UNDER:

1. CONFERENCE WITH LABOR NEGOTIATORS

Pursuant to Government Code section 54957.6:

Agency Designated Representatives: City Manager, City Attorney, Assistant City Manager, Administrative Services Director

Employee Organizations: Service Employees International Union (SEIU), Local 221

Unrepresented Employees: Confidential, Mid-management, Management

2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code section 54957

Title: City Manager

3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)

Facts and circumstances pursuant to Government Code section 54956.9(e)(1)

MOTION CARRIED BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS: PATTON, BRAGG, BILBRAY, DEDINA

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: SPRIGGS

Mayor Dedina adjourned the meeting to Closed Session at 5:01 p.m. and he reconvened the meeting to Open Session at 6:00 p.m.

Reporting out of Closed Session, City Attorney Lyon announced City Council discussed Closed Session Item Nos. 1 and 3, City Council gave direction and no reportable action was taken. Item 2 was continued to the end of the Regular meeting.

REGULAR MEETING CALL TO ORDER

Mayor Dedina called the regular meeting to order at 6:01 p.m.

ROLL CALL BY CITY CLERK

Councilmembers present: Patton, Bragg,
Councilmembers absent: Spriggs
Mayor Present: Dedina
Mayor Pro Tem Present: Bilbray
Staff Present: City Manager Hall, City Attorney Lyon, Deputy City Attorney
Sjoblom, City Clerk Hald, Public Works Director Levien,
Administrative Services Director Bradley, Building Official Holden

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Janet Figueroa, a 6th grade student at Nicoloff School.

AGENDA CHANGE

None.

MAYOR/COUNCIL REIMBURSEMENT DISCLOSURE/COMMUNITY ANNOUNCEMENTS/REPORTS ON ASSIGNMENTS AND COMMITTEES

Councilmember Patton spoke about his attendance at Katy's Endless Summer Grom Surf Classic and volunteering at the Kiwanis Fishing Derby.

Councilmember Bragg reported on her attendance at the Delaware Sidewalk Ribbon-cutting Ceremony.

Mayor Dedina reported on his attendance at: the events that took place along the beach on Saturday, the Outdoor Outreach event where students from Barrio Logan were taught to swim, the Ribbon-cutting Ceremony for the John Harvard Academy, and the Delaware Sidewalk Ribbon-cutting Ceremony. He thanked Public Works Director Levien and City staff for organizing the Delaware Sidewalk Ribbon-cutting Ceremony and he announced more events celebrating the work done throughout the City will take place in the future.

COMMUNICATIONS FROM CITY STAFF

None.

PUBLIC COMMENT

Sandra Guevara, an employee with the City of Imperial Beach and Imperial Beach resident, spoke in support for the bargaining team who is working towards a fair contract. She thanked the City Manager and management staff for improving the morale, working conditions and the lives of Imperial Beach employees. She spoke of her family's need for health insurance and she supported a deal that is fair to the employees.

David Garcias, President of SEIU 221, spoke about the progress made with negotiations and stated he and the SEIU members appreciate the leadership of the City Council and City Manager.

PRESENTATIONS (1.1)

1.1 PROCLAMATION IN RECOGNITION OF NATIONAL PROSTATE CANCER AWARENESS MONTH. (0410-30)

Mayor Dedina presented a proclamation to Chad Little, a Prostate Cancer awareness advocate, declaring September as National Prostate Cancer Awareness Month.

CONSENT CALENDAR (2.1-2.3)

MOTION BY PATTON, SECOND BY BILBRAY, TO APPROVE CONSENT CALENDAR ITEM NOS. 2.1 THROUGH 2.3. MOTION CARRIED BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS: PATTON, BRAGG, BILBRAY, DEDINA

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: SPRIGGS

2.1 MINUTES.

Approved the Special Meeting minutes of August 5, 2015.

2.2 RATIFICATION OF WARRANT REGISTER. (0300-25)

Ratified the following registers: Accounts Payable Numbers 87102 through 87135 and EFT #'s 48-56 for a subtotal amount of 168,491.59, and Payroll Checks/Direct Deposits 46654 through 46676 for a subtotal amount of \$179,249.51 for a total amount of \$347,741.10.

2.3 RECEIVE TREASURER'S REPORT. (0300-90)

City Council received the monthly treasurer's report.

ORDINANCES – INTRODUCTION/FIRST READING (3)

None.

PUBLIC HEARINGS (4.1)

4.1 ADOPTION OF RESOLUTION NO. 2015-7616 AUTHORIZING ABATEMENT OF NUISANCE CONDITIONS AND REMOVAL OF INOPERABLE VEHICLES AT 741 HICKORY COURT. (0470-20)

A revised page 2 of Resolution No. 2015-7616 was submitted as Last Minute Agenda Information.

Mayor Dedina declared the public hearing open.

Since this is a due process hearing, City Attorney Lyon announced that in an abundance of caution she will have Deputy City Attorney Sjoblom sit with the City Council because he has no involvement on this matter.

Building Official Holden gave a PowerPoint presentation on the item.

Deputy City Attorney Sjoblom stated that the City Council is acting as the neutral decision maker to either affirm or deny staff's recommendation for declaration of public nuisance.

Jason Eliaser, an attorney representing the owner, stated his two major concerns are the alleged violations and concerns with procedure. With regard to the violations, he stated the City has consistently noted concerns with trash service and vehicles. The issue regarding the roof was added at a later date and there has been no investigation that would demonstrate a structural hazard. He added that the homeowner would like to replace the roof all together; however, the large assessed penalties make it difficult. With regard to trash service, it will commence at the beginning of September. With regard to the vehicles, he questioned how Code Compliance determined that the vehicles are inoperable, stating that the vehicles are not rusted out, not dismantled, they are not parked on the lawn, and they are all in operating condition with the exception of the 1965 Corvair. He also expressed concern about proper noticing for an abatement.

Councilmember Bragg stated the goal for code compliance cases has always been to gain compliance. She noted that the City is successful most of the time and that it is the exception and not the norm to have code cases before City Council.

Building Official Holden and Code Compliance Officer Seifert responded to concerns of Councilmember Bragg regarding trash service. Although there is no storage of trash in the front yard, it was noted that the property has not had trash service since 2013. Building Official Holden explained the condition of the vehicles and indicated which two were considered nonoperational because they do not have current registration.

Mr. Eliaser explained the definition of inoperable as defined in the municipal code and stated that it has nothing to do with DMV registration. He stated the vehicles are operational but registration of some of the vehicles may be an issue. He also stated that there is a specific procedure that the City must follow for removal of vehicles and expressed concern about due process rights and other issues.

In response to questions by Councilmember Bragg, Building Official Holden explained the process for an abatement warrant with regard to the vehicles, he addressed questions regarding the roof, and spoke about safety concerns. He stressed that City staff has made several attempts to contact the owner to inspect the property but there has been no communication by the property owner.

In defense of the property owners, Mr. Eliaser explained there are inner family issues at play, that they are of modest means, they are aware of the problems and want to fix them, and the amount in fines make it difficult for them to address the issues. In response to Councilmember Bragg, he stated that he would encourage the property owners to open themselves up to an inspection. He noted that the owners would like to replace the entire roof but they do not have the means. He did not believe that the roof is collapsing, but is rather a leaky roof that can be fixed. In response to Councilmember Bilbray, he explained that he was brought on a couple of days ago, that he has been trying to catch up to speed on the matter and he is available to have conversations with the City.

Councilmember Patton stated that this is the City's last ditch effort and that it was troublesome to him. He expressed concern that the condition of the property is a cycle being repeated and questioned if one month is enough time to take care of the property.

Mr. Eliaser stated that he is putting trust in his client and will encourage them to do everything they can. He said EDCO has already been contacted, he spoke about the plans the property owner has for dealing with one of the vehicles, he expressed concern about the procedure for abatement and stated proper noticing was not followed.

Mayor Pro Tem Bilbray spoke about his prior experience with this property when it went before City Council in 2010. He challenged whether the Corvair was operational because it has been sitting on the property for 5 years. He stated that he is willing to give the owner another month and directed staff to address the procedure issues that were raised. He offered a motion to continue the public hearing to the second meeting in September (September 16, 2015).

Mayor Dedina stated he supported the motion. He also stated that the property owners have not done anything to solve the problems and noted that the City is being generous by providing time to solve the problem. He thanked Mr. Eliaser for dealing with the matter and he recognized City Staff for their hard work and their attempts at coming to a resolution.

MOTION BY BILBRAY TO CONTINUE THE PUBLIC HEARING TO THE SECOND MEETING IN SEPTEMBER (SEPTEMBER 16, 2015) AND DIRECT STAFF TO LOOK INTO AND ADDRESS THE PROCEDURAL ISSUES THAT HAVE BEEN BROUGHT UP.

Discussion:

Deputy City Attorney Sjoblom clarified that the public hearing needs to be closed before the motion. With regard to the noticing, he stated that procedurally the property owners received the proper notice for this hearing. With regard to the procedure for removing a vehicle, there is another process, which he reviewed. He noted that if the resolution is adopted, nothing will happen until the 21st of September.

Without Dissention of the City Council, Mayor Dedina closed the public hearing.

MOTION BY BILBRAY, SECOND BY PATTON, TO CONTINUE THE PUBLIC HEARING TO THE SECOND MEETING IN SEPTEMBER (SEPTEMBER 16, 2015) AND DIRECT STAFF TO LOOK INTO AND ADDRESS THE PROCEDURAL ISSUES THAT HAVE BEEN BROUGHT UP.

Discussion:

In response to comments made by City Council, Deputy City Attorney Sjoblom stated that code enforcement is all about getting compliance and there are multiple tools for compliance including fines. When someone has complied, there can be discussion about whether to waive the fines or whether it is fair. He added that the reason for fines is partially to compensate the City for the time staff has worked on getting compliance and that there is a process to remove the fines from the tax rolls if the City Council decides to do that. He did not recommend removal of the fines until there is compliance.

Mayor Dedina commented that City Council is trusting the property owners that within a month things will be done and he cautioned against abusing that trust.

VOTES WERE NOW CAST ON ORIGINAL MOTION BY BILBRAY, SECOND BY PATTON, TO CONTINUE THE PUBLIC HEARING TO THE SECOND MEETING IN SEPTEMBER (SEPTEMBER 16, 2015) AND DIRECT STAFF TO LOOK INTO AND ADDRESS THE PROCEDURAL ISSUES THAT HAVE BEEN BROUGHT UP. MOTION CARRIED BY THE FOLOWING VOTE:

AYES: COUNCILMEMBERS: PATTON, BRAGG, BILBRAY, DEDINA

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: SPRIGGS

REPORTS (5.1-5.5)

5.1 BI-ANNUAL INVESTMENT REPORT PRESENTED BY CHANDLER ASSET MANAGEMENT. (0350-90)

Administrative Services Director Bradley introduced the item, he displayed the City's Cash and Investments and fund balances, and he noted that this same information was previously presented to City Council in detail during the budgeting process.

Jayson Schmitt, Senior Vice President and Portfolio Manager with Chandler Asset Management Group, gave a presentation on the City's Investment Report for period ending June 30, 2015.

Council accepted the bi-annual investment report from Chandler Asset Management.

5.2 APPOINTMENTS TO THE DESIGN REVIEW BOARD AND TIDELANDS ADVISORY COMMITTEE. (0120-30 & 0120-90)

Mayor Dedina thanked City Council for selecting a new way of collectively and collaboratively selecting candidates. He commented on the inclusive process for all of the Councilmembers to participate in the interviews, he mentioned there was an impressive group of applicants, and

that the process was open to the public.

Sandra Brillhart expressed appreciation for City Council moving forward to fill the positions, she supported a critical review of the applicants to ensure the quality of life that people appreciate in Imperial Beach and she noted that it was a positive step forward.

Mayor Dedina presented the following names of candidates to fill the openings on the Design Review Board and Tidelands Advisory Committee:

Design Review Board:

- Peter Smith for a term of office expiring December 31, 2016; and
- Dante Pamintuan and Ilia Voronchihin each for terms of office expiring December 31, 2018.

Tidelands Advisory Committee:

- Joshua Hill, Mary Doyle, and Bruce Robertson each for terms of office expiring December 31, 2018.

Councilmember Patton had positive comments about the selection process and said the applicants were highly educated and qualified.

Councilmember Bragg spoke about the process and the qualifications of the applicants. She recognized Mayor Dedina for including the City Councilmembers in the selection process and she thanked the applicants for coming forward for consideration.

MOTION BY BRAGG, SECOND BY BILBRAY, TO ACCEPT THE MAYOR'S RECOMMENDATION AS FOLLOWS:

DESIGN REVIEW BOARD:

- PETER SMITH FOR A TERM OF OFFICE EXPIRING DECEMBER 31, 2016; AND
- DANTE PAMINTUAN AND ILIA VORONCHIHIN EACH FOR TERMS OF OFFICE EXPIRING DECEMBER 31, 2018.

TIDELANDS ADVISORY COMMITTEE:

- JOSHUA HILL, MARY DOYLE, AND BRUCE ROBERTSON EACH FOR TERMS OF OFFICE EXPIRING DECEMBER 31, 2018.

MOTION CARRIED BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS: PATTON, BRAGG, BILBRAY, DEDINA

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: SPRIGGS

5.3 DISCUSSION AND CONSIDERATION OF RESOLUTION NO. 2015-7618 PROVIDING \$50,000 TO THE BOYS & GIRLS CLUB OF SOUTH COUNTY TO ADDRESS A FUNDING SHORTFALL IN PROVIDING RECREATIONAL SERVICES ON BEHALF OF THE CITY OF IMPERIAL BEACH AT IMPERIAL BEACH SPORTS PARK. (1020-90)

A revised Resolution No. 2015-7618 was submitted as Last Minute Agenda Information.

City Manager Hall reported on the item.

In response to questions by Councilmember Patton, Aaron Ruiz, Unit Director for Boys & Girls Club of South County, stated the weekend Skate Park hours are from 9:00 a.m. to 7:00 p.m., he hoped the Skate Park will be opened by the City, there is a possibility of offering classes at the Skate Park in the future and that the Recreation Center will be open on Saturday mornings from 10:00 a.m. to 2:00 p.m.

City Manager Hall clarified that at the previous meeting, City Council approved a change to the agreement where the City will assume responsibility to open the Skate Park.

MOTION BY BRAGG, SECOND BY BILBRAY, TO ADOPT RESOLUTION NO. 2015-7618 AUTHORIZING A BUDGET AMENDMENT AND APPROPRIATION OF \$50,000 TO ADDRESS A FUNDING SHORTFALL EXPERIENCED BY THE BOYS & GIRLS CLUB. STAFF WOULD FURTHER RECOMMEND THAT FUTURE FUNDING REQUESTS BE CONSIDERED FOLLOWING AN ANNUAL REPORT FROM THE CLUB TO THE CITY COUNCIL. MOTION CARRIED BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS: PATTON, BRAGG, BILBRAY, DEDINA

NOES: COUNCILMEMBERS: NONE

ABSENT: COUNCILMEMBERS: SPRIGGS

5.4 REPORT: KEGEL (APPLICANT); INFORMATIONAL UPDATE REGARDING THE MIXED-USE DEVELOPMENT WITH THREE RESIDENTIAL CONDOMINIUM UNITS ABOVE COMMERCIAL SPACE AT 951 SEACOAST DRIVE (APN 625-352-23-00). MF 1149. (0600-20)

A letter submitted by Elisabeth Shapiro and Michael Carey, dated August 6, 2015, was submitted as Last Minute Agenda Information.

City Manager Hall reported on the item. He reviewed the project design changes the applicant made to address some concerns raised by citizens. In response to Councilmember Bragg's question as to why this item was not on the Consent Calendar, he noted the importance of being as transparent as possible due to significant public input and notification concerns and to make City Council aware of the significant efforts made by the applicant and residents to reach this conclusion.

Michael Carey reviewed the collaborative process that took place in order to achieve an alternate plan for the project. He noted that although the alternate plan is acceptable, there is still much more to be done in terms of looking at codes and how they are applied (additional speaking time donated by Ruth Cole).

Terri Johnson asked the City to consider the following issues when reviewing future projects (which are detailed in a letter she sent to the Mayor and City Council): administrative adjustment for commercial ceiling height of 15 ft.; parking problems as a result of small concessions; measuring building height from finished grade rather than finished floor; issuing Conditional Use Permits in the Seacoast Commercial Zone for residential uses, and she spoke about supporting the General Plan's overriding goal. She asked the City Council to consider the issues raised, and to not discount public's input (additional speaking time donated by Denise Haferty-Neff).

Elisabeth Shapiro thanked everyone involved in the process, she expressed concern about changes made to the code noting that they only learned of the changes through approval of three recent projects, and she also raised concern about interpretation of existing code. She stated that it would greatly improve upon the way the City is developing by interpreting the existing code in a way that is neighborhood friendly and in a manner that is consistent with the Coastal Act and General Plan. She later commented on the economic benefit of such an interpretation and gave examples of those benefits. She commented that they are discouraged that there are plans being submitted that are in violation of the City's code. She suggested having more levels of review before going to City Council and she spoke in support for and reconsideration of having a Planning Commission. (additional speaking time donated by Sandra Brillhart).

Randy Putland thanked staff for working with the neighborhood, he submitted a list of ordinances that needs to be interpreted correctly, and he questioned if vacation rentals are allowed.

Mayor Dedina announced the following people submitted speaker slips that had a consistent comment of supporting the changes made to the project, however there was disagreement with the proposed density, height of building and parking plan:

Joey Fallon
Liesl Gercke
Bryan Brillhart
Perry Payne
Tom Cahoon
Chase Putland
Keri Belhon
Patrick Belhon
Veronica Archer
John Rendine
Victoria Mejia
Jacqueline Jones
Kelly Leiker
Michael Carson
Georgia Wratchford
Daryl Jones
Mary P. Goodman
Daren Johnson
Pace Putland

N Lamssies spoke in support for underground parking.

Councilmember Patton expressed his appreciation for this item not being on the Consent Calendar and he thanked all parties for coming up with a compromise. He disclosed he met with the group of residents (he called the Observers). He noted his concerns with measuring ceiling height, measuring grade, and parking issues. He suggested that the City not be too easy or lenient with developers, yet spoke of the need to be flexible, to find balance and to stick to core values.

Councilmember Bragg disclosed she met with the developer after the last City Council meeting.

Mayor Dedina disclosed he met with Ms. Johnson to discuss her issues. He suggested that in the future public groups think strategically on how best to convey their message to the City Council. He anticipates development in all areas of the City and expressed a desire to have the public group look beyond the first two blocks of the City.

City Council received and accepted the informational update regarding the mixed-use project located at 951 Seacoast Drive (APN 625-352-23-00).

5.5 13TH STREET CLASS 2 BIKEWAY PROJECT (S13-202). (0680-20)

Public Works Director Levien reported on the item. He noted that since no bids were received for the project, he offered three options on how to proceed as follows:

1. Reformat the bid advertisement and rebid the project;
2. Negotiate a contract with a qualified contractor of the City's choice; or
3. Open the late bid (that was received 7 minutes after the bid closing time) and determine if the late bid is acceptable.

He responded to questions of City Council regarding the possibility of having two bids go out sequentially and he spoke as to why it makes more sense to have one project rather than two. He also responded to questions about the process and timing for reformatting the bid.

MOTION BY PATTON, SECOND BY BRAGG, TO NEGOTIATE A CONTRACT WITH A QUALIFIED CONTRACTOR OF THE CITY'S CHOICE AND THAT THEY SUBMIT A PROPOSAL BEFORE MOVING FORWARD (OPTION 2).

City Council discussion.

Mayor Pro Tem Bilbray stated that he is concerned with traffic backing up as a result of two stop signs being located near each other and he spoke in opposition to the item.

Mayor Dedina spoke in support of the item due to safety for pedestrians.

VOTES WERE NOW CAST ON ORIGINAL MOTION BY PATTON, SECOND BY BRAGG, TO NEGOTIATE A CONTRACT WITH A QUALIFIED CONTRACTOR OF THE CITY'S CHOICE AND THAT THEY SUBMIT A PROPOSAL BEFORE MOVING FORWARD (OPTION 2). MOTION CARRIED BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS: PATTON, BRAGG, DEDINA
NOES: COUNCILMEMBERS: BILBRAY
ABSENT: COUNCILMEMBERS: SPRIGGS

I.B. REDEVELOPMENT AGENCY SUCCESSOR AGENCY REPORTS (6)

None.

ITEMS PULLED FROM THE CONSENT CALENDAR

None.

ADJOURN REGULAR MEETING

Mayor Dedina adjourned the Regular meeting at 8:28 p.m.

CLOSED SESSION

City Council adjourned to Closed Session at 8:29 p.m. under:

2. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Pursuant to Government Code section 54957

Title: City Manager

Reporting out of Closed Session, City Manager Hall announced City Council discussed Closed Session Item No. 2, City Council gave direction and no reportable action was taken.

ADJOURN CLOSED MEETING

Mayor Dedina adjourned the closed session meeting at 8:49 p.m.

_____/s/
Serge Dedina,
Mayor

_____/s/
Jacqueline M. Hald, MMC
City Clerk